IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8388 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

URMILABEN UMIYASHANKAR BHATT

Versus

STATE OF GUJARAT

Appearance:

MR BIPIN P JASANI for Petitioner

M/S PATEL ADVOCATES for Respondent No. 1

Ms. Manisha Lavkumar for respondent No. 2

MR SP HASURKAR for Respondent No. 3

MR MTM HAKIM for Respondent No. 4

MR BAIJU JOSHI for Respondent No. 5

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 18/12/2000

ORAL JUDGEMENT

Heard learned advocate Mr.Jasani for the petitioner and Ms. Manisha Lavkumar, learned AGP for the respondent authorities. None present for respondent No.5.

In this petition, the petitioner is challenging the order passed by respondent NO.5 dated 18th July, 1995 at annexure "E" page 37 to the petition with a prayer that the petitioner be declared as eligible to get the pay scale of trained teacher with effect from 18th July, 1979 in the pay scale of Rs.290-560 and with effect from 1.1.1986 in the pay scale of Rs.1200-2040 and further to direct the respondent authorities to pay the pay scale of trained teacher to the petitioner regularly from month to month basis. Learned advocate Mr.Jasani has submitted that the Gujarat Primary Education Tribunal has passed a common order in application no. 340 of 1991 to 345 of 1991 dated 14th June, 1995 wherein the application qua petitioner is an application no. 344 of 1991 and the tribunal have treated the applicants therein as untrained teachers.

In view of the order dated 14th June, 1995, respondent No. 5 has issued an order dated 18th July, 1995 and treated the petitioner as untrained teacher and thereby has reduced the salary of the petitioner from trained teacher to untrained teacher and recovery order has been issued by the respondent NO.5.

Learned advocate MR. Jasani has submitted that one of the applicant of the group matter before the tribunal namely Prabhaben Ramniklal in application no. 340 of 1991 has challenged the said common order passed by the tribunal by filing special civil application no. 6641 of 1995 wherein this court has passed order dated 8th October , 1996 quashing and setting aside the common order passed by the tribunal and directed the respondents to make necessary orders in the event the petitioner is found to be an untrained teacher after affording opportunity to show cause to the petitioner. Thus, the judgment and order passed by the tribunal on 14th June, 1995 has been quashed and set aside by this court in the said petition on 18.10.1996 and, therefore, he has prayed to pass such similar orders in this petition to quash and set aside the common order passed by the tribunal. Considering the request made by Mr. Jasani and also after considering the submissions made by Ms. Manisha Lavkumar, learned AGP appearing for the respondent State Authorities, this court passes the following order.

Order passed by the Gujarat Primary Education

Tribunal, Ahmedabad in application no. 340 of 1991 to 345 of 1991 dated 14thJune, 1995 is hereby quashed and set aside qua petitioner. Order dated 18th July, 1995 passed by respondent NO.5 school authority is also quashed and set aside. It shall, however, be open to the respondents to make necessary orders in accordance with law in the event the petitioner is found to be untrained teacher after affording an opportunity to show cause to the petitioner. It is also clarified that the aforesaid order has been passed by this Court without prejudice to the rights and contentions of the parties. In the result, this petition is allowed. Rule is made absolute in terms indicated hereinabove with no order as to costs.

18.12.2000. (H.K. Rathod,J.)

Vyas